IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 21663 of 2005(D)

PETITIONER:

PREMA.M.G., W/O.V.N.VENUGOPAL,
AGED 40, VAKATHANATHUTHAZHA HOUSE,
KADAYANIKKADU P.O., KOTTAYAM DISTRICT.

BY ADV. SRI.C.S.MANILAL

RESPONDENTS:
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1. THE STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY THE SECRETARY,
PATTOM, THIRUVANANTHAPURAM.

3. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
KERALA, THIRUVANANTHAPURAM.

4. THE KOTTAYAM DISTRICT CO-OPERATIVE
BANK, REPRESENTED BY THE GENERAL MANAGER,
KOTTAYAM.

BY ADV. SRI.T.R.HARIKUMAR
SRI.P.C.SASIDHARAN, SC, KPSC
GOVERNMENT PLEADER SRI. P.K. RAVIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)21663/05

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF NOTIFICATION ISSUED BY 2ND RESPONDENT IN THE MATHRUBHUMI THOZHILVARTHA DATED 26.10.1999.

EXT.P2: TRUE COPY OF THE RELEVANT PORTION OF THE 56TH ANNUAL REPORT OF THE KOTTAYAM DISTRICT CO-OPERATIVE BANK FOR 1996-97.

EXT.P3: TRUE COPY OF THE RELEVANT PORTION OF THE 57TH ANNUAL REPORT OF THE KOTTAYAM DISTRICT CO-OPERATIVE BANK.

EXT.P4: TRUE COPY OF THE RELEVANT PORTION OF THE ANNUAL REPORT OF THE KOTTAYAM DISTRICT CO-OPERATIVE BANK FOR THE YEAR 1999-2000 AND 2000-2001.

EXT.P5: TRUE COPY OF THE RELEVANT PORTION OF THE 61ST ANNUAL REPORT OF THE KOTTAYAM DISTRICT CO-OPERATIVE BANK FOR THE YEAR 2001-2002 AND 2002=03.

EXT.P6: TRUE COPY OF THE RELEVANT PORTION OF THE 62ND ANNUAL REPORT OF THE KOTTAYAM DISTRICT CO-OPERATIVE BANK FOR THE YEAR 2002-03 AND 2003-04.

EXT.P7: TRUE COPY OF THE DECISION DATED 5.10.2004 OF THE BOARD OF DIRECTORS OF THE 4TH RESPONDENT BANK.

EXT.P8: TRUE COPY OF THE 62ND ANNUAL REPORT OF THE 4TH RESPONDENT BANK

EXT.P9: TRUE COPY OF THE ORDER DATED 20.12.2004 IN W.P.(C)37000/04 OF THIS HON'BLE COURT.

EXT.P10: TRUE COPY OF THE JUDGMENT DATED 14.1.05 IN W.P.(C)37000/04 OF THIS HON'BLE COURT.

RESPONDENT'S EXHIBITS

EXT.R4(A): TRUE COPY OF THE PROCEEDINGS NO.CB(3)43059/2004/D.DIS.DATED 16.12.2004.

EXT.R4(B): TRUE COPY OF THE ORDER NO.CB(3)51675/2004 DATED 27.12.2004.

/TRUE COPY/

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)NO. 21663 OF 2005

DATED THIS THE 26th DAY OF FEBRUARY, 2007

JUDGMENT

An aspirant for the post of Clerk/Cashier in the fourth respondent- Kottayam District Co-operative Bank, who participated in the selection process of the Public Service Commission and was included in the rank list is the petitioner herein. The rank list has expired on 31.12.2004. According to the petitioner, the Government, by a decision dated, 22.12.2004, recommended to the Public Service Commission to extend the validity of the list. He would also submit that the Public Service Commission by a majority decision dated, 17.3.05, decided to extend the validity of the list. However, citing some technical reasons, P.S.C. did not implement its decision. In the above circumstances, petitioner has approached this Court seeking the following reliefs:

> " i) Declare that, the power of the Public Service Commission does not confer on it to reject and discard the policy decisions of the Government and the Commission cannot impose it's own policy decision in the matter including the extension of validity of the list recommended by the Government as a matter of its policy;
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> ii) Declare that, the non extension of the validity of the Select List expired on 31.12.2004

in relation to Ext.P1 selection to the 4th respondent Bank by the Public Service Commission is illegal and ultra vires;

iii) issue a writ of mandamus or any other appropriate writ, order or direction directing the 2nd respondent to extend the validity of the list expired on 31.12.2004 in relation to Ext.P1 selection notification by implementing the majority decision of the Public Service Commission dated 17.3.2005 and to advise the petitioner accordingly to the post of Clerk/Cashier in the 4th respondent Bank;

iv) And grant such other reliefs, as this Honourable Court may deem fit and proper."

2. The petitioner contends that in view of the decision of the Supreme Court in **State of Punjab and others Vs. Manjit Singh and others (2003(11) SCC 559)**, a policy decision of the Government is binding upon the Public Service Commission and therefore in this case, they ought to have extended the validity of the list as recommended by the Government of Kerala. He would also submit that when the Commission takes a majority decision to extend the validity of the list, they cannot do anything but implement the same. On these contentions, petitioner submits that he may be granted the reliefs claimed for.

3. A Counter affidavit has been filed by P.S.C. as also an additional counter affidavit. Although they have not specifically controverted the fact that the Government has recommended the extension of the period of the validity of the list, they would

categorically submit that candidates were advised from the list in accordance with the vacancy reported during the pendency of the list and the rank list stands cancelled on 31.12.2004 and therefore the petitioner cannot be granted any relief in this writ petition.

4. I have considered the rival contentions in detail. I am of opinion that at this juncture I am not in position to grant the relief directing the P.S.C. to advise the petitioner's name for appointment to the post of Clerk/Cashier in the fourth respondent bank in so far as admittedly the list has expired on 31.12.2004 and the same has not been extended by any order even assuming that the contentions of petitioner are correct. No extension is also possible under law after the list has expired since the period of validity of a current list alone can be extended. That being so, I am of opinion that it is futile to go into the contentions of petitioner, at this point of time, when this Court cannot, under law, issue directions to the second respondent, either to advise the petitioner for appointment or to appoint the petitioner.

In the above circumstances, I do not find any merit in the writ petition and accordingly, the same is dismissed.

S. SIRI JAGAN, JUDGE

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